139. The method of claim 137, wherein the marker gene is selected from the group consisting of a fluorescent protein gene and a β-galactosidase gene, an antibiotic resistance gene, a multidrug resistance gene, an herbicide resistance gene, or a toxin resistance gene.

140. The method of claim 139 wherein the antibiotic resistance gene is an ampicillin resistance gene.

141. The method of claim 114 or 115, wherein the candidate nucleic acid is obtained from a DNA library.

142. The method of claim 141, wherein the DNA library is selected from the group consisting of a genomic DNA library, an oligonucleotide DNA library and a cDNA library.

143. The method of claim 114 or 115, wherein a cloning site is operably linked to the marker gene and wherein the candidate nucleic acid can be cloned into the cloning site.

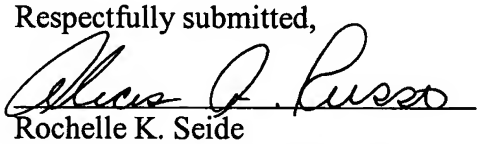
144. The method of claim 143, wherein the cloning site comprises at least one endonuclease restriction enzyme cleavage site.

REMARKS

This preliminary amendment is supplemental to the application which was filed on October 31, 2001. By this amendment, Applicants have deleted claims 1-113 and added new claims 114-144. Applicants have deleted claims 1-113 and added new claims 114-144 to ensure that the pending claims are directed to a single invention as necessary for filing a Petition to

Make Special. No new matter has been added by new claims 114-144. Support for new claims 114-144 can be found in originally filed cancelled claims 1-113 and throughout the specification. Further, as stated in the Petition to Make Special, Applicant will make an election without traverse as a prerequisite to the grant of special status should the U.S. Patent and Trademark Office determine that all of the claims presented are not obviously directed to a single invention.

Respectfully submitted,



Rochelle K. Seide
Patent Office Reg. No. 32,300

Alicia A. Russo
Patent Office Reg. No. 46,192

Attorneys for Applicants

(212) 408-2500